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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z): Adjustment to Asset-Size Exemption Threshold

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official commentary.

SUMMARY: The Bureau is amending the official commentary that interprets the requirements of the Bureau's Regulation Z (Truth in Lending) to reflect a change in the asset size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.028 billion from \$2 billion. The adjustment is based on the 1.4 percent increase in the average of the CPI-W for the 12-month period ending in November 2013. Therefore, creditors with assets of \$2.028 billion or less as of December 31, 2013, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2014.

DATES: This final rule is effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: David Friend, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC, 20552 at (202) 435-7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended TILA section 129D(a) to contain a general requirement that an escrow account be established by a creditor to pay for property taxes and insurance premiums for certain first-lien higher-priced mortgage loan transactions. Section 1461 of the Dodd-Frank Act also generally permits an exemption from the higher-priced mortgage loan escrow requirement for a creditor that: (1) operates predominantly in rural or underserved areas; (2) together with all affiliates, has total annual mortgage loan originations that do not exceed a limit set by the Bureau; (3) retains its mortgage obligations in portfolio; and (4) meets any asset-size threshold and any other criteria as the Bureau may establish.

In the 2013 Escrows Final Rule, 78 FR 4726 (January 22, 2013), the Bureau established such an asset-size threshold of \$2,000,000,000, which will adjust automatically each year, based on the year-to year change in the average of the CPI-W for each 12-month period ending in November, with rounding to the nearest million dollars. *See* 12 CFR 1026.35(b)(2)(iii)(C). For 2013, the threshold was \$2 billion. During the 12-month period ending in November 2013, the average CPI-W increased by 1.4 percent. As a result, the exemption threshold is increased to \$2.028 billion for 2014. Thus, loans made by creditors with assets of \$2.028 billion or less as of December 31, 2013, that meet the other requirements of 12 CFR 1026.35(b)(2)(iii) will be exempt in 2014 from the escrow-accounts requirement for higher-priced mortgage loans.

II. Procedural Requirements

Administrative Procedure Act

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, supplement I and comment 35(b)(2)(iii)-1 in Regulation Z, are amended to update the exemption threshold. The amendment in this final rule is technical and nondiscretionary, and it merely applies the formulas established by Regulation X for determining any adjustments to the exemption threshold. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary and the amendment is adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 1, 2014. The amendment in this notice is technical and non-discretionary, and it applies the method previously established in the agency's regulations for automatic adjustments to the threshold.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

List of Subjects in 12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

Part 1026 — TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603-2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

2. In Supplement I to part 1026—Official Interpretations, under *Section 1026.35—Requirements for Higher-Priced Mortgage Loans, 35(b)(2) Exemptions, Paragraph 35(b)(2)(iii)*, paragraph 1.iii is revised.

The revision reads as follows:

SUPPLEMENT I TO PART 1026—OFFICIAL INTERPRETATIONS

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SUBPART E—SPECIAL RULES FOR CERTAIN HOME MORTGAGE TRANSACTIONS

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Section 1026.35—Requirements for Higher-Priced Mortgage Loans

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35(b)(2) Exemptions.

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Paragraph 35(b)(2)(iii)

1. *Requirements for exemption.* * * *

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iii. As of the end of the preceding calendar year, the creditor had total assets that are less than the asset threshold for the relevant calendar year. For calendar year 2014, the asset threshold is \$2,028,000,000. Creditors that had total assets of less than \$2,028,000,000 on December 31, 2013, satisfy this criterion for purposes of the exemption during 2014. This asset threshold shall adjust automatically each year based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million dollars. The Bureau will publish notice of the asset threshold each year by amending this comment. For historical purposes, the prior asset threshold was:

A. For calendar year 2013, the asset threshold was \$2,000,000,000. Creditors that had total assets of less than \$2,000,000,000 on December 31, 2012, satisfied this criterion for purposes of the exemption during 2013.

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Dated: December 24, 2013.

Richard Cordray

Director, Bureau of Consumer Financial Protection

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